

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint  
for Penalties against:

APEX LIMOUSINE, LLC

DOCKET TE-161261

COMMISSION STAFF'S MOTION  
TO IMPOSE SUSPENDED  
PENALTIES

**I. RELIEF REQUESTED**

1 In its order entered August 14, 2018, in this docket, the Washington Utilities and Transportation Commission (Commission) suspended \$6,700 of a \$10,000 penalty assessed against Apex Limousine, LLC (“Apex Limousine” or “Company”) subject to compliance with three conditions. Commission Staff (Staff) believes that Apex Limousine has not complied with any of the three conditions. Accordingly, Staff requests that the Commission impose the suspended portion of the penalty on Apex Limousine.

**II. STATEMENT OF FACTS**

2 On July 5, 2017, the Commission instituted a classification proceeding against Apex Limousine and served a complaint and notice of hearing.<sup>1</sup> In the complaint, the Commission alleged that Apex Limousine violated chapter 81.70 RCW by advertising and offering party bus transportation without possessing the necessary charter carrier authority from the Commission.

3 Following a hearing on August 7, 2017, the Commission entered Order 02 on August 14, 2018. In Order 02, the Commission classified Apex Limousine as a charter party or excursion service carrier, ordered Apex Limousine to cease and desist operations as a charter and excursion service carrier without first obtaining a permit from the Commission,

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<sup>1</sup> Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties, and Notice of brief Adjudicative Proceeding.

and imposed suspended penalties on condition of future compliance. The Commission set the suspension for a period of two years, after which the suspended penalty would be waived, if Apex Limousine complied with the following three conditions:

1. Apex Limousine, LLC must permanently refrain from operating as a charter party or excursion carrier without first obtaining the required permit from the Commission;
2. Apex Limousine, LLC must comply with all applicable statutes and Commission rules.
3. Apex Limousine, LLC must either pay the \$3,300 portion of the penalty that is not suspended or file jointly with Staff a mutually agreeable payment arrangement within 10 days of the effective date of this Order.<sup>2</sup>

4 Following entry of Order 02, Staff reviewed Apex Limousine's website.<sup>3</sup> The website continues to contain advertising for party bus services.<sup>4</sup>

5 Staff did not receive a request from Apex Limousine for a payment plan. To date, the Commission has not received any payments toward the \$3,300 amount of the penalty that was not suspended.<sup>5</sup>

### **III. EVIDENCE RELIED UPON**

6 This motion relies on the Declaration of Michael Turcott, dated February 16, 2018, and its attachment. In addition, the motion relies on the documents on file in this docket.

### **IV. DISCUSSION**

7 Apex Limousine has failed to comply with all three of the conditions in Order 02. Apex Limousine has not obtained a charter and excursion carrier certificate; yet, Apex

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<sup>2</sup> Order 02 at ¶ 28.

<sup>3</sup> Declaration of Michael Turcott at ¶ 5.

<sup>4</sup> Declaration of Michael Turcott at ¶ 5.

<sup>5</sup> Declaration of Michael Turcott at ¶ 5.

Limousine continues to display advertising for party bus transportation on its website. Under state law, a person engaged in the transportation of persons by “party bus” over any public highway in this state is considered to be engaging in the business of a charter party carrier or excursion service carrier.<sup>6</sup> And it is illegal for any person to engage in the business of a charter party carrier or excursion service carrier of passengers over any public highway within the state of Washington without first having obtained a certificate from the Commission to do so or having registered as an interstate carrier.<sup>7</sup> Engaging in the business of a charter party carrier or excursion service carrier includes advertising or soliciting, offering, or entering into an agreement to provide charter party or excursion service.<sup>8</sup> By advertising party bus transportation on its website, Apex Limousine is engaging in the business of a charter party carrier. As Apex Limousine has not obtained a charter or excursion service certificate from the Commission, Apex Limousine has failed to meet the first condition.

8           By advertising party bus transportation on its website without obtaining the necessary authority from the Commission, Apex Limousine continues to violate RCW 81.70.220. RCW 81.70.220 is an “applicable state law” under the second condition in Order 02. Because Apex Limousine has violated RCW 81.70.220, Apex Limousine has failed to comply with the second condition.

9           Apex Limousine has not paid the unsuspended portion of the penalty that the Commission assessed in Order 02. In addition, Apex never contacted Staff to arrange a payment plan. Accordingly, Apex Limousine failed to meet the third condition.

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<sup>6</sup> RCW 81.70.020(7).

<sup>7</sup> RCW 81.70.220(1).

<sup>8</sup> *Id.*

## V. CONCLUSION

10 In conclusion, Apex Limousine has failed to comply with the conditions underlying the suspension of the penalty. The Commission should impose the suspended penalty amount of \$6,700 and order Apex Limousine to pay the penalty immediately.

DATED February 16, 2018.

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